

### REMARKS

Favorable reconsideration of this patent application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 14,20,21,29,30,33, and 34 have been rejected as being anticipated by Eigenmann under 35 USC 102; Claims 15-17,19,22,25,26,28, and 31 have been rejected as being unpatentable over Eigenmann under 35 USC 103; and Claims 18,23, 27, and 32 have been objected to as containing allowable subject matter but being dependent from rejected parent claims. Claims 1-13,24,33, and 34 have been cancelled, Claims 35 and 36 have been inserted, and consequently, Claims 14-23,25-32, 35,and 36 are now active in this patent application.

It is reiterated to the examiner that the present

invention is directed toward an apparatus and method for fabricating or forming a collated, serial, nested array of pavement markers, and for serially dispensing the same as a result of separating the leading one of the pavement markers from the other pavement markers disposed within the collated, serial, nested array of pavement markers, stripping the leading one of the pavement markers from the release liner or release sheet, and applying the same to the pavement surface. More particularly, it is noted that the means and method for forming the collated, serial, nested array of pavement markers comprising the disposition of successive ones of the pavement markers being disposed atop each other in the nested array. This teaching is submitted to be entirely lacking within the reference of Eigenmann and therefore a rejection of the same under 35 USC 102 is not tenable.

The examiner goes on to state that forming the pavement markers into such a nested array is obvious in view of known stacking or nesting techniques. Applicants strenuously disagree. Firstly, in accordance with accepted patent

practice, the cited reference must disclose teachings which either anticipate or render obvious the subject matter claimed. Eigenmann is totally lacking in any such teachings. Secondly, there are no teachings whatever of using broad concepts of stacking or nesting in connection with the fabrication of the collated array of pavement markers wherein not only would the markers per se have to be stacked or nested, but more importantly, or in conjunction therewith, the single release sheet must be folded and interposed between the successively stacked or nested pavement markers so as to achieve the unique collated nested array of pavement markers. This is not shown, illustrated, or even remotely taught or suggested within Eigenmann and to say that such means would be obvious is pure speculation. In short, it is respectfully submitted that Eigenmann has not in fact met the tests or requirements needed for a viable rejection.

Still further, there is absolutely no disclosure whatever in Eigenmann in connection with the indexable roller, the drive motor, and the programmable logic controller (PLC) for controlling the various components as is clearly

disclosed and claimed. Applicants certainly admit that they are not the first inventors to employ a programmable logic controller (PLC), that is, programmable logic controllers (PLC) certainly do exist, however, there are no teachings whatever of their use in connection with controlling apparatus for fabricating pavement markers as is specifically claimed. Additional examples of the deficiencies of Eigenmann can of course be noted, however, it is respectfully submitted that the Examiner can in fact appreciate the lack of significant teachings within Eigenmann to the effect that such reference cannot possibly anticipate or render obvious the claimed apparatus or method as now set forth in newly inserted Claims 35 and 36. Accordingly, it is respectfully submitted still further that all of the claims of record now patentably define over all of the prior art of record.

It is lastly noted that the Abstract has been corrected, and the corrected Abstract appears upon a separate sheet attached hereto.

In light of the foregoing, it is submitted that this patent application is now in condition for allowance, and therefore, an early and favorable action is now anticipated and awaited.

Respectfully Submitted,  
**SCHWARTZ & WEINRIEB**



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